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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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20999	7590	01/12/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			MANNING, JOHN	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/911,911	Applicant(s) MIYAZAKI ET AL.	
	Examiner John Manning	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franco (US Pat App Pub No 2002/0046407) in view of Corvin (US Pat App Pub No 2001/0029610).

In regard to claims 16, and 21-22, Franco discloses an "information processing apparatus which acquires preset-recording data for preset-recording a television program from a predetermined information providing apparatus via a network and, on the basis of said preset-recording data, controls preset-recording said television program" as recited in the preamble of claim 1 (illustrated in Figure 1). The claimed limitation of "selecting means for selecting said television program to be preset-recorded" is met by Figure 4a item 406. "At a step 406, the web server 302 preferably receives programming instructions 118 from the user 110. In the embodiment illustrated in FIG. 2B, the user 110 submits the programming instructions 118 by choosing one or

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more programs to record through the Clickable Programming Page 210 or the Program Schedule Page 220. In one embodiment, the user 110 is first authenticated at the step 404 before programming instructions are received at the step 406. In alternative embodiments, the order of the steps 404 and 406 can be reversed, or the steps 404 and 406 can be performed simultaneously such as in conjunction with the use of identifying web browser cookies" (Paragraph 0085). The claimed limitation of "transmitting means for transmitting television program identifying information for identifying said television program selected by said selecting means to said information providing apparatus" is met by Figure 4a, item 408. "At a step 408, the control module 310 preferably creates programming data 108, based at least upon the programming instructions 118. In one embodiment, the control module encodes the programming instructions 118 for transmission over the communication link 130. In the case that a broadcast medium (e.g., broadcast television infrastructure) is used as the communication link 130, the programming instructions are preferably prefixed by a video recording system ID code. Alternatively, if a computer network is used as the communication link 130, the programming data 108 may be placed into addressed packets for transmission. The programming data 108 are also preferably encoded for the user's particular video recording system 120, possibly based upon brand, model, and/or configuration. In one embodiment, all remotely programmable video recording systems 120 can be configured to receive programming data in a common format. The programming data 108 may also be encrypted to ensure privacy" (Paragraph 0086). Franco discloses receiving means for receiving said preset-recording data from said information providing

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apparatus in response to said television program identifying information as can be seen in Figure 4a (item 410). "At a step 410, the host communication module 312 preferably transmits the programming data 108 from a remote location to the video recording system 120 over the communication link 130. In one embodiment, one host system 102 is configured to service a large population, such as the continental United States or even the complete globe. The host system 102 is preferably operated from within one or more commercial buildings in the same general location. The majority or all of the video recording systems 120 are preferably located in users' homes. Therefore, the host system 102 will be remotely located with respect to most if not all video recording systems 120" (Paragraph 0087). The claimed limitations of "recording means for recording said television program to an information recording medium on the basis of said preset-recording data received by said receiving means" and "reproducing means for reproducing said television program recorded to said information recording medium by said recording means" are met by Figure 6. "FIG. 6 illustrates a process 600 that is preferably performed by the remotely programmable video recording device 500. At a step 602, the video recording device 500 receives programming data 108 from the remotely located host system 102 over a communication link 130. The receipt in the step 602 by the video recording device 500 corresponds to the transmission in the step 410 (FIG. 4) by the host system 102. At a step 604, the video recording device 500 records broadcast content in accordance with the programming data 108, which may be one or more VCR-Plus codes. At a step 606, the video recording device 500 replays the recorded content, preferably as a result of direct user commands. The direct user

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commands are preferably received from a hand held remote control operated by the user 110 in the presence of the video recording device 500" (Paragraph 0096). Franco fails to explicitly disclose receiving advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information. Corvin teaches receiving advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information so as to increase the effectiveness of advertisements in recorded television programs. "The processor may then cause the selected program and the selected promotion to be recorded on storage media. The recording of a selected promotion may be at the beginning, at the end, at the beginning and at the end, or at any other desired point or points within a recorded program. The insertion of a selected promotion during the recording of a program may cause the processor to buffer all of or portions of a program in a storage unit. After the promotion is inserted, the processor may then cause the remaining portion of the program to be recorded from the storage unit. A program may indicate where a promotion is or promotions are to be inserted using one or more tagged promotion points within a program's signal or data. These promotion points may be located at the beginning, at the end, at the beginning and at the end, or at any other desired point or points within a program. For example, when recording multiple programs, one or more promotions may be recorded between the programs" (Paragraph 0027). "The processor may select and record a program and select a promotion, as set forth in detail above. The processor may also control

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playback of a recorded program by inserting promotions at a promotion point during the playback of the selected program. The processor may determine promotion points using tags within a program's signal or data or using any other suitable method. The insertion of a selected promotion during playback of the recorded program may cause the processor to send, for example, a pause or stop command or signal to halt the playback of the recorded program. After, the promotion is inserted and played, the processor may then send a command or signal to continue the playback of the remaining portion or portions of the recorded program" (Paragraph 0032). If the processor inserts the promotion in the beginning of a television program, the user cannot view the television program until after the promotion has been displayed. Consequently, it would have been obvious to one of ordinary skill in the art to modify Franco with receiving advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information where the advertisement is presented before the television program for the stated advantage.

In regard to claim 17, Corvin discloses advertisement data corresponding to a television program from a first site as can be seen in Figure 1.

In regard to claims 18-19, Corvin discloses advertisement data corresponding to a television program from a first site as can be seen in Figure 1. The aforementioned combined teaching fails to disclose acquiring a keyword preset to a television program from a second site. Official notice is taken that it is well known in the art to acquire program information (such as keywords defining the type of program) so as to reduce

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the traffic on any one site. Consequently, it would have been obvious to one of ordinary skill in the art to modify the combined teaching with acquiring program information (such as keywords defining the type of program) for the stated advantage.

In regard to claim 20, Franco discloses that the advertisement is operable to be displayed before the recording of the program (Paragraph 0027).

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franco in view of Corvin and further in view of Bennington et al (US Pat App Pub No 2004/0168188).

In regard to claims 1-4, Franco discloses an "information processing apparatus which acquires preset-recording data for preset-recording a television program from a predetermined information providing apparatus via a network and, on the basis of said preset-recording data, controls preset-recording said television program" as recited in the preamble of claim 1 (illustrated in Figure 1). The claimed limitation of "selecting means for selecting said television program to be preset-recorded" is met by Figure 4a item 406. "At a step 406, the web server 302 preferably receives programming instructions 118 from the user 110. In the embodiment illustrated in FIG. 2B, the user 110 submits the programming instructions 118 by choosing one or more programs to record through the Clickable Programming Page 210 or the Program Schedule Page 220. In one embodiment, the user 110 is first authenticated at the step 404 before programming instructions are received at the step 406. In alternative embodiments, the order of the steps 404 and 406 can be reversed, or the steps 404 and 406 can be performed simultaneously such as in conjunction with the use of identifying web

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browser cookies" (Paragraph 0085). The claimed limitation of "transmitting means for transmitting television program identifying information for identifying said television program selected by said selecting means to said information providing apparatus" is met by Figure 4a, item 408. "At a step 408, the control module 310 preferably creates programming data 108, based at least upon the programming instructions 118. In one embodiment, the control module encodes the programming instructions 118 for transmission over the communication link 130. In the case that a broadcast medium (e.g., broadcast television infrastructure) is used as the communication link 130, the programming instructions are preferably prefixed by a video recording system ID code. Alternatively, if a computer network is used as the communication link 130, the programming data 108 may be placed into addressed packets for transmission. The programming data 108 are also preferably encoded for the user's particular video recording system 120, possibly based upon brand, model, and/or configuration. In one embodiment, all remotely programmable video recording systems 120 can be configured to receive programming data in a common format. The programming data 108 may also be encrypted to ensure privacy" (Paragraph 0086). Franco discloses receiving means for receiving said preset-recording data from said information providing apparatus in response to said television program identifying information as can be seen in Figure 4a (item 410). "At a step 410, the host communication module 312 preferably transmits the programming data 108 from a remote location to the video recording system 120 over the communication link 130. In one embodiment, one host system 102 is configured to service a large population, such as the continental United States or

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even the complete globe. The host system 102 is preferably operated from within one or more commercial buildings in the same general location. The majority or all of the video recording systems 120 are preferably located in users' homes. Therefore, the host system 102 will be remotely located with respect to most if not all video recording systems 120" (Paragraph 0087). The claimed limitations of "recording means for recording said television program to an information recording medium on the basis of said preset-recording data received by said receiving means" and "reproducing means for reproducing said television program recorded to said information recording medium by said recording means" are met by Figure 6. "FIG. 6 illustrates a process 600 that is preferably performed by the remotely programmable video recording device 500. At a step 602, the video recording device 500 receives programming data 108 from the remotely located host system 102 over a communication link 130. The receipt in the step 602 by the video recording device 500 corresponds to the transmission in the step 410 (FIG. 4) by the host system 102. At a step 604, the video recording device 500 records broadcast content in accordance with the programming data 108, which may be one or more VCR-Plus codes. At a step 606, the video recording device 500 replays the recorded content, preferably as a result of direct user commands. The direct user commands are preferably received from a hand held remote control operated by the user 110 in the presence of the video recording device 500" (Paragraph 0096). Franco fails to explicitly disclose receiving advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information. Corvin teaches receiving

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advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information so as to increase the effectiveness of advertisements in recorded television programs. "The processor may then cause the selected program and the selected promotion to be recorded on storage media. The recording of a selected promotion may be at the beginning, at the end, at the beginning and at the end, or at any other desired point or points within a recorded program. The insertion of a selected promotion during the recording of a program may cause the processor to buffer all of or portions of a program in a storage unit. After the promotion is inserted, the processor may then cause the remaining portion of the program to be recorded from the storage unit. A program may indicate where a promotion is or promotions are to be inserted using one or more tagged promotion points within a program's signal or data. These promotion points may be located at the beginning, at the end, at the beginning and at the end, or at any other desired point or points within a program. For example, when recording multiple programs, one or more promotions may be recorded between the programs" (Paragraph 0027). Consequently, it would have been obvious to one of ordinary skill in the art to modify Franco with receiving advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information for the stated advantage. The combined teaching fails to disclose displaying said advertisement-associated data and said television program substantially at same time for a viewer to view said advertisements associated data while simultaneously viewing

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said television program. Bennington teaches displaying said advertisement-associated data and said television program substantially at same time for a viewer to view said advertisements associated data while simultaneously viewing said television program so as to maximize the viewer's exposure to an advertisement (see Paragraph 0097). Consequently, it would have been obvious to one of ordinary skill in the art to modify the combined teaching with displaying said advertisement-associated data and said television program substantially at same time for a viewer to view said advertisements associated data while simultaneously viewing said television program for the stated advantage.

5. Claims 5-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franco in view of Corvin and further in view of Ozer et al. (US Pat No 6,704,929).

In regard to claims 5, 8, 10 and 13, Franco discloses an "information processing apparatus which acquires preset-recording data for preset-recording a television program from a predetermined information providing apparatus via a network and, on the basis of said preset-recording data, controls preset-recording said television program" as recited in the preamble of claim 1 (illustrated in Figure 1). The claimed limitation of "selecting means for selecting said television program to be preset-recorded" is met by Figure 4a item 406. "At a step 406, the web server 302 preferably receives programming instructions 118 from the user 110. In the embodiment illustrated in FIG. 2B, the user 110 submits the programming instructions 118 by choosing one or more programs to record through the Clickable Programming Page 210 or the Program Schedule Page 220. In one embodiment, the user 110 is first authenticated at the step

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404 before programming instructions are received at the step 406. In alternative embodiments, the order of the steps 404 and 406 can be reversed, or the steps 404 and 406 can be performed simultaneously such as in conjunction with the use of identifying web browser cookies" (Paragraph 0085). The claimed limitation of "transmitting means for transmitting television program identifying information for identifying said television program selected by said selecting means to said information providing apparatus" is met by Figure 4a, item 408. "At a step 408, the control module 310 preferably creates programming data 108, based at least upon the programming instructions 118. In one embodiment, the control module encodes the programming instructions 118 for transmission over the communication link 130. In the case that a broadcast medium (e.g., broadcast television infrastructure) is used as the communication link 130, the programming instructions are preferably prefixed by a video recording system ID code. Alternatively, if a computer network is used as the communication link 130, the programming data 108 may be placed into addressed packets for transmission. The programming data 108 are also preferably encoded for the user's particular video recording system 120, possibly based upon brand, model, and/or configuration. In one embodiment, all remotely programmable video recording systems 120 can be configured to receive programming data in a common format. The programming data 108 may also be encrypted to ensure privacy" (Paragraph 0086). Franco discloses receiving means for receiving said preset-recording data from said information providing apparatus in response to said television program identifying information as can be seen in Figure 4a (item 410). "At a step 410, the host communication module 312 preferably

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transmits the programming data 108 from a remote location to the video recording system 120 over the communication link 130. In one embodiment, one host system 102 is configured to service a large population, such as the continental United States or even the complete globe. The host system 102 is preferably operated from within one or more commercial buildings in the same general location. The majority or all of the video recording systems 120 are preferably located in users' homes. Therefore, the host system 102 will be remotely located with respect to most if not all video recording systems 120" (Paragraph 0087). The claimed limitations of "recording means for recording said television program to an information recording medium on the basis of said preset-recording data received by said receiving means" and "reproducing means for reproducing said television program recorded to said information recording medium by said recording means" are met by Figure 6. "FIG. 6 illustrates a process 600 that is preferably performed by the remotely programmable video recording device 500. At a step 602, the video recording device 500 receives programming data 108 from the remotely located host system 102 over a communication link 130. The receipt in the step 602 by the video recording device 500 corresponds to the transmission in the step 410 (FIG. 4) by the host system 102. At a step 604, the video recording device 500 records broadcast content in accordance with the programming data 108, which may be one or more VCR-Plus codes. At a step 606, the video recording device 500 replays the recorded content, preferably as a result of direct user commands. The direct user commands are preferably received from a hand held remote control operated by the user 110 in the presence of the video recording device 500" (Paragraph 0096). Franco

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fails to explicitly disclose receiving advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information. Corvin teaches receiving advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information so as to increase the effectiveness of advertisements in recorded television programs. "The processor may then cause the selected program and the selected promotion to be recorded on storage media. The recording of a selected promotion may be at the beginning, at the end, at the beginning and at the end, or at any other desired point or points within a recorded program. The insertion of a selected promotion during the recording of a program may cause the processor to buffer all of or portions of a program in a storage unit. After the promotion is inserted, the processor may then cause the remaining portion of the program to be recorded from the storage unit. A program may indicate where a promotion is or promotions are to be inserted using one or more tagged promotion points within a program's signal or data. These promotion points may be located at the beginning, at the end, at the beginning and at the end, or at any other desired point or points within a program. For example, when recording multiple programs, one or more promotions may be recorded between the programs" (Paragraph 0027). "The processor may select and record a program and select a promotion, as set forth in detail above. The processor may also control playback of a recorded program by inserting promotions at a promotion point during the playback of the selected program. The processor may determine promotion points using

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tags within a program's signal or data or using any other suitable method. The insertion of a selected promotion during playback of the recorded program may cause the processor to send, for example, a pause or stop command or signal to halt the playback of the recorded program. After, the promotion is inserted and played, the processor may then send a command or signal to continue the playback of the remaining portion or portions of the recorded program" (Paragraph 0032). If the processor inserts the promotion in the beginning of a television program, the user cannot view the television program until after the promotion has been displayed. Consequently, it would have been obvious to one of ordinary skill in the art to modify Franco with receiving advertisement associated data in response to said television program identifying information and display control means for controlling the displaying of the television program identifying information where the advertisement is presented before the television program for the stated advantage. The combined teaching fails to disclose notification means for notifying, if a predetermined condition is satisfied after the displaying of said advertisement-associated data is started by said display control means, said information providing apparatus. Ozer teaches notification means for notifying; if a predetermined condition is satisfied after the displaying of said advertisement-associated data is started by said display control means, said information providing apparatus so as to gather information for business considerations. "Once the event occurs, management device 120 couples the occurrence of the event with information specific to the programming displayed as a result of the event. One embodiment allows for the use of unique IDs from the electronic program guide to be

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coupled to the event, and the date and time when the event occurred. The IDs identify such information as the program viewed and the channel tuned. Thus, a processor included in management device 120 (or any other electronic device in which the invention is implemented), coupled with computer-executable instructions, represents one example of means for generating viewing information" (Col 7, Lines 41-52).

Consequently, it would have been obvious to one of ordinary skill in the art to modify the combined teaching with notification means for the stated advantage. Franco discloses a first and second receiving means as illustrated in Figure 1.

In regard to claims 6-7, 11-12 and 14-15, the aforementioned combined teaching fails to disclose that the predefined condition is a correlation between a television program or television program keyword and an advertisement. Official notice is taken that it is notoriously well known in the art to monitor the correlation between a television program (where keywords can be used to define a program type) and an advertisement so as to increase the effectiveness of the advertisements. Consequently, it would have been obvious to one of ordinary skill in the art to modify the aforementioned combined teaching with to monitor the correlation between a television program (where keywords can be used to define a program type) and an advertisement for the stated advantage.

In regard to claim 9, Franco discloses that the advertisement is operable to be displayed during the reproduction of the program (Paragraph 0027).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Alexander et al (US Pat No 6,177,931)
- Schein et al (US Pat App Pub No 2003/0196201).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM
January 7, 2006



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600